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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/935,414	08/23/2001	Elmootazbellah Nabil Elnozahy	AUS920010135US1	9849
45502 7590 06/09/2008 DILLON & YUDELL LLP 8911 N. CAPITAL OF TEXAS HWY., SUITE 2110 AUSTIN, TX 78759				
EXAMINER				
HU, JINSONG				
ART UNIT		PAPER NUMBER		
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

09/935,414

Applicant(s)

ELNOZAHY ET AL.

Examiner

JINSONG HU

Art Unit

2154

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 May 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1, 2, 5-10, 14-17, 19 and 21-23 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-2, 5-10, 14-17, 19 and 21-23 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/C)
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date: _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

1. In view of the Appeal Brief filed on 9/29/05, PROSECUTION IS HEREBY REOPENED. New grounds of rejections are set forth below.

To avoid abandonment of the application, appellant must exercise one of the following two options:

- (1) file a reply under 37 CFR 1.111; or,
- (2) request reinstatement of the appeal.

If reinstatement of the appeal is requested, such request must be accompanied by a supplemental appeal brief, but no new amendments, affidavits (37 CFR 1.130, 1.131 or 1.132) or other evidence are permitted. See 37 CFR 1.193(b)(2).

2. Claims 1-2, 5-10, 14-17, 19 and 21-23 are presented for examination.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 1-2, 5-10, 14-17, 19 and 21-23 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

I. As per claim 1, applicant claimed "a web server having a user space and an operating system space", however, from Fig. 2 of drawings, we can clearly find out web server only includes application layer functions, which applicant claimed as "user space", i.e., the web server is the element for handling user's request from its network interface. Furthermore, applicant claimed "a user space", but there is no any definition in the specification and drawings clearly defined "a user space". On the other words, the specification and drawings fails to provide enough information for interpreting the claims.

II. As per claim 9, applicant claimed user space has TCP/IP protocol stack, however, Fig. 2 indicates operating system includes TCP/IP stack. If "user space" overlapped with operating system, it will totally conflict with claim 1.

III. As per claim 17, it is uncertain the meaning of "mapping a network interface to the user interface", how can an interface being mapping to another interface.

Corrections are required.

Claim Rejections - 35 USC § 101

5. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

6. Claims 1-2, 5-10, 14-17, 19 and 21-23 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Limitations of claims

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1-2, 5-10, 14-17, 19 and 21-23 all direct to software code, which apparently do not fall within any statutory categories. Examiner suggests added hardware limitation to the claims and replace "computer readable medium" with "computer readable storage medium".

Corrections are required.

Claim Rejections - 35 USC § 102

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

8. Claims 1-2, 5-7, 9-10, 14-15, 17 and 19 are rejected under 35 U.S.C. 102(e) as being anticipated by Deily et al. (US 2004/0044760).

9. As per claims 1 and 5, Deily teaches the invention as claimed including a web server having a user space and an operating system space [i.e., user-mode & kernel-mode, Fig. 4; par. 58], wherein the user space includes comprising of an application level interpreter [416, Fig. 4] configured to process client requests [pars. 12, 59-60 & 67-68; i.e., searching application pool to find the relevant group matches the request]; at

least one kernel extension device driver enabling the application level interpreter to communicate with a network interface [402, Fig. 4] to receive the client request [pars. 59-60 & 73].

a transmission protocol library, including TCP/IP library routines [i.e., TCP/IP call function], enabling the web server to process the client requests and the corresponding response within the user space [2020, Fig. 4, pars. 58-60].

10. As per claim 2, Deily teaches the interpreter comprises an HTTP interpreter [par. 60].

11. As per claim 6, Deily teaches the web server includes a user space file cache [414, Fig. 4; par. 62].

12. As per claim 7, Deily teaches web server is configured to initiate multiple threads within its user space responsive to user requests [par. 96].

13. As per claims 9-10 and 14-15, since they are apparatus claims of claims 1-2 and 5-7, they are rejected for the same basis as claims 1-2 and 5-7 above.

14. As per claims 17 and 19, since they are computer program claims of claims 1-2 and 5-7, they are rejected for the same basis as claims 1-2 and 5-7 above.

Claim Rejections - 35 USC § 103

15. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

16. Claims 8 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Deily et al. (US 2004/0044760) as applied to claims 1-2, 5-7, 9-10, 14-15, 17 and 19 above, in view of "Official Notice".

17. As per claim 8 and 16, Deily teaches the invention substantially as claimed in claim 1. Deily does not specifically teach the user space threads including perl scripts, cgi threads and Java servlets. "Official Notice" is taken that both the concept and advantages of providing for perl scripts, cgi threads and Java servlets are well known and expected in the art. It would have been obvious to a person of ordinary skill in the art include perl scripts, cgi threads and Java servlets with Deily's system because it would improve the functionality of the system by providing diverse services to user.

18. Claims 21-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Deily et al. (US 2004/0044760), in view of Lin et al. (US 6,272,522).

19. As per claims 21-23, Deily teaches the invention substantially as claimed in claim 1. Deily does not specifically teach the step of polling network interface periodically. However, Lin on the other hand teaches the step of polling network interface periodically [102, Fig. 5; col. 8, lines 23-25]. It would have been obvious to a person of ordinary skill in the art to include Lin's polling step in Deily's system because it would increase efficiency of the system by processing user's request without delay once user's request arrived. One of ordinary skill in the art would have been motivated to modify Deily's system with Lin's polling step to improve the performance of the system.

Conclusion

20. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jinsong Hu whose telephone number is (571) 272-3965. The examiner can normally be reached on 8:00 AM - 5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan Flynn can be reached on (571) 272-1915. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you

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have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Jinsong Hu/

Primary Examiner, Art Unit 2154